

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MYRIAM ZAYAS,

Plaintiff,

v.

DEPARTMENT OF CHILDREN  
YOUTH AND FAMILIES, et al.,

Defendants.

CASE NO. C20-0981JLR-TLF

ORDER

**I. INTRODUCTION**

Before the court is *pro se* Plaintiff Myriam Zayas’s “Statement of Facts,” which she filed on October 3, 2022. (Statement (Dkt. # 66).) The court liberally construes her filing as either a request for relief from the judgment under Federal Rule of Civil Procedure 60(b) or as a motion for reconsideration under Local Rules W.D. Wash. LCR 7(h). *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (“A document filed *pro se* is ‘to be liberally construed’[.]”) (quoting *Estelle v. Gamble*, 429 U.S. 97, 106 (1976)). Because

1 Ms. Zayas's filing does not satisfy the requirements of either Rule 60(b) or LCR 7(h), the  
2 court DENIES Ms. Zayas's "Statement of Facts."

## 3 II. BACKGROUND

4 Ms. Zayas filed this case on June 18, 2020, alleging that Defendants the  
5 Department of Children Youth and Families ("DYCF"), Jamia McRae, Kejana Black, and  
6 Lonette Dominguez violated her civil rights. (Compl. (Dkt. # 1).) She amended her  
7 complaint several times over the following months. (*See generally* Dkt.) On September  
8 5, 2020, Ms. Zayas amended her complaint to add claims against Defendant Shea  
9 Hopfauf. (3rd Am. Compl. (Dkt. # 18).) On October 5, 2020, Ms. Zayas and Defendants  
10 DYCF, Ms. Black, and Ms. Dominguez stipulated to the dismissal with prejudice of Ms.  
11 Zayas's claims against those Defendants. (Stip. (Dkt. # 26).) Ms. Zayas subsequently  
12 filed her fourth and fifth amended complaints. (4th Am. Compl. (Dkt. # 25); 5th Am.  
13 Compl. (Dkt. # 32).)

14 On January 15, 2021, the remaining Defendants moved to dismiss Ms. Zayas's  
15 claims against them. (MTD (Dkt. # 40) (moving to dismiss Ms. Zayas's fifth amended  
16 complaint).) Ms. Zayas filed multiple responses to Defendants' motion, both before and  
17 after Defendants filed their reply in support of their motion. (*See generally* Dkt.) She  
18 also filed sixth and seventh amended complaints without seeking the court's leave to do  
19 so. (6th Am. Compl. (Dkt. # 52); 7th Am. Compl. (Dkt. # 54).)

20 On August 6, 2021, Magistrate Judge Theresa L. Fricke issued a report and  
21 recommendation in which she recommended that the court grant Defendants' motion to  
22 dismiss. (*See generally* R&R (Dkt. # 57).) She also recommended that the court strike

1 Ms. Zayas's sixth and seventh amended complaints. (*Id.* at 7.) On September 8, 2021,  
2 the court adopted in part and modified in part Magistrate Judge Fricke's report and  
3 recommendation over Ms. Zayas's objections. (9/8/21 Order (Dkt. # 60); *see* Obj. (Dkt.  
4 # 58).) In relevant part, the court (1) struck Ms. Zayas's sixth and seventh amended  
5 complaints; (2) dismissed Ms. Zayas's 18 U.S.C. § 242, RCW 42.20.100, and intentional  
6 infliction of emotional distress claims with prejudice and without leave to amend; and  
7 (3) dismissed Ms. Zayas's 42 U.S.C. §§ 1983 and 1985 claims without prejudice and with  
8 leave to amend. (9/8/21 Order at 5.) The court directed Ms. Zayas to file an amended  
9 complaint that addressed the deficiencies identified in the report and recommendation  
10 within 21 days of entry of its order. (*Id.*) Thus, Ms. Zayas's amended complaint, if any,  
11 was due by September 29, 2022.

12 Ms. Zayas did not further amend her complaint, although the court gave her leave  
13 to do so. (*See generally* Dkt.) Accordingly, on October 12, 2021, the court dismissed  
14 Ms. Zayas's claims with prejudice and without leave to amend and entered judgment in  
15 favor of Defendants. (10/12/21 Order (Dkt. # 62); Judgment (Dkt. # 63).)

### 16 III. ANALYSIS

17 To the extent that her filing can be liberally construed as a request for relief from a  
18 final judgment under Rule 60(b) of the Federal Rules of Civil Procedure, Ms. Zayas has  
19 not shown that she meets the grounds for relief in this case. Under Rule 60(b), the court  
20 may relieve a party from a final judgment, order, or proceeding for the following reasons:

21 (1) mistake, inadvertence, surprise, or excusable neglect; (2)  
22 newly discovered evidence that, with reasonable diligence,  
could not have been discovered in time to move for a new trial

1 under Rule 59(b); (3) fraud (whether previously called intrinsic  
2 or extrinsic), misrepresentation, or misconduct by an opposing  
3 party; (4) the judgment is void; (5) the judgment has been  
4 satisfied, released, or discharged; it is based on an earlier  
judgment that has been reversed or vacated; or applying it  
prospectively is no longer equitable; or (6) any other reason  
that justifies relief.

5 Fed. R. Civ. P. 60(b). A Rule 60(b) motion must be made “within a reasonable time” and  
6 for the first three listed reasons, no more than a year after entry of judgment. Fed. R. Civ.  
7 P. 60(c).

8 Ms. Zayas’s filing asserts that her federal court cases may have been improperly  
9 dismissed because she filed “too many amended complaints.” (Statement at 2.) The  
10 court, however, provided Ms. Zayas detailed reasons for why it was dismissing her case;  
11 granted her leave to file another amended complaint that addressed the deficiencies  
12 identified in the report and recommendation; provided her 21 days to make that filing;  
13 and waited an additional two weeks before dismissing the case with prejudice. (*See*  
14 *9/8/21 Order; 10/12/21 Order.*) Thus, Ms. Zayas’s reasoning does not apply to the  
15 court’s order dismissing her case. Therefore, to the extent Ms. Zayas’s filing can be  
16 liberally construed as a request for relief from judgment under Rule 60(b), the court  
17 denies it.

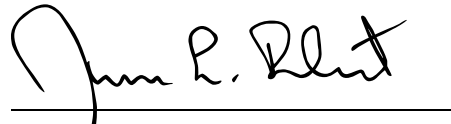
18 To the extent that her filing could be liberally construed as a motion for  
19 reconsideration under LCR 7(h), Ms. Zayas has not shown that she meets the grounds for  
20 reconsideration in this case. “Motions for reconsideration are disfavored,” and the court  
21 “will ordinarily deny such motions in the absence of a showing of manifest error in the  
22 prior ruling or a showing of new facts or legal authority which could not have been

1 brought to its attention earlier with reasonable diligence.” LCR 7(h)(1). Ms. Zayas has  
2 made neither showing here. Further, a motion for reconsideration must “be filed within  
3 fourteen days after the order to which it related is filed.” LCR 7(h)(2). Ms. Zayas filed  
4 her “Statement of Facts” well outside of this period. Therefore, to the extent that  
5 Plaintiff’s filing could be liberally construed as a motion for reconsideration under LCR  
6 7(h), the court denies it.

#### 7 **IV. CONCLUSION**

8 For the foregoing reasons, to the extent Ms. Zayas’s filing can be liberally construed  
9 as a motion for relief under Rule 60(b) or as a motion for reconsideration under LCR 7(h),  
10 the court DENIES Ms. Zayas’s “Statement of Facts” (Dkt. # 66).

11 Dated this 5th day of October, 2022.

12  
13 

14 JAMES L. ROBART  
15 United States District Judge  
16  
17  
18  
19  
20  
21  
22